

Message

From: Miller, Patrick [miller.patrick@epa.gov]
Sent: 4/13/2020 8:46:14 PM
To: Breneman, Sara [breneman.sara@epa.gov]
Subject: RE: AK Steel: Force Majeure Notice

Ex. 5 Deliberative Process (DP)

From: Breneman, Sara <breneman.sara@epa.gov>
Sent: Monday, April 13, 2020 3:21 PM
To: Miller, Patrick <miller.patrick@epa.gov>
Cc: Schaufelberger, Daniel <schaufelberger.daniel@epa.gov>; Dickens, Brian <dickens.brian@epa.gov>
Subject: RE: AK Steel: Force Majeure Notice

Ex. 5 Deliberative Process (DP)

From: Miller, Patrick <miller.patrick@epa.gov>
Sent: Monday, April 13, 2020 2:54 PM
To: Breneman, Sara <breneman.sara@epa.gov>
Cc: Schaufelberger, Daniel <schaufelberger.daniel@epa.gov>; Dickens, Brian <dickens.brian@epa.gov>
Subject: FW: AK Steel: Force Majeure Notice

Ex. 5 Deliberative Process (DP)

From: Gross, Louise C <gross.louise@epa.gov>
Sent: Monday, April 13, 2020 2:43 PM
To: Miller, Patrick <miller.patrick@epa.gov>; Schaufelberger, Daniel <schaufelberger.daniel@epa.gov>
Subject: FW: AK Steel: Force Majeure Notice

Ex. 5 Deliberative Process (DP)

Louise C. Gross
 Associate Regional Counsel
 U. S. Environmental Protection Agency
 77 W. Jackson Blvd. (C-14J)
 Chicago, IL 60604
 (312) 886-6844

From: Wesloh, Steven M. <SWesloh@fbtlaw.com>
Sent: Monday, April 13, 2020 1:36 PM
To: Zoeller, Michael (ENRD) <Michael.Zoeller@usdoj.gov>; Gross, Louise C <gross.louise@epa.gov>; Neil Gordon <gordonn1@michigan.gov>
Subject: RE: AK Steel: Force Majeure Notice

Mike, Louise and Neil:

I am writing on behalf of AK Steel in follow-up to our discussion on April 8, and to supplement AK Steel's Force Majeure Notice dated April 1, 2020, regarding the Dearborn Works Clean Air Act Consent Decree. That Force Majeure Notice

relates to a delay in conducting certain maintenance repairs on the ESP due to COVID-19 considerations. The government requested additional information on two aspects of the Force Majeure Notice.

First, the government requested a description of the logistical difficulties in maintaining social distancing while working on the ESP repairs.

The ESP access manholes are 22 inch diameter, either on the roof to access the top or at the hopper level to access the bottom. The ESP has 32 fields (8 chambers by 4 fields) and each field is only 6 feet 8 inches in the direction of the air flow. This small space makes social distancing impossible. As an example, when collecting plates are being replaced, four workers on the top of the field, four workers on the bottom of the field, three workers inside the field, and one confined space attendant are all required to complete the task. AK Steel also has to do a lot of cladding of the hoppers, casing walls and beams. The cladding plates need to be small enough to fit through the access manholes and need at least two workers inside the field to set and weld out the clad plates, placing them within 24 inches to 36 inches of one another. In short, the significant confined space inside the ESP, and the need for multiple workers to conduct the repairs, makes social distancing logistically infeasible.

Second, the government requested a commitment that the Force Majeure delay will conclude when there are no longer safety concerns over COVID-19 transmission in the confined space of the ESP, even if the idle of the Dearborn Works continues longer due to other reasons.

AK Steel agrees. The primary consideration for the Force Majeure delay is the safety concerns over COVID-19 transmission due to the confined space of the ESP. As noted in the Force Majeure notice, the idle of the Dearborn Works further reinforced this issue by prohibiting contractors at the plant during the idle, in order to further control potential COVID-19 exposure. AK Steel management's assessment of these safety concerns has been directed by the various orders and guidance issued by federal, state and local government entities, along with discussions with its contractors and industry representatives. Once these COVID-19 safety concerns are alleviated, then AK Steel intends to promptly resume the repairs, even if the Dearborn Works remains idled for other reasons.

I trust the foregoing adequately addresses your requests for further information. If you have any questions, please let me know. Thank you.

Steve

Steven M. Wesloh
Attorney at Law | Frost Brown Todd LLC

Great American Tower
301 East Fourth Street, Suite 3300 Cincinnati, OH 45202
513.651.6911 Direct | 513.651.6800 Main | 513.207.2860 Mobile | 513.651.6981 Fax
swesloh@fbtlaw.com | frostbrowntodd.com

From: Gross, Louise C <gross.louise@epa.gov>
Sent: Monday, April 13, 2020 1:41 PM
To: Wesloh, Steven M. <SWesloh@fbtlaw.com>
Cc: Zoeller, Michael (ENRD) <Michael.Zoeller@usdoj.gov>; Neil Gordon <gordonn1@michigan.gov>
Subject: AK Steel: Force Majeure Notice

Steve,

Please let us know if you have been able to discuss with the company's leadership the questions that government counsel raised during our 4/8/20 call.

Thanks—and hope you are well.

Louise

Louise C. Gross
Associate Regional Counsel
U. S. Environmental Protection Agency
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604
(312) 886-6844

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